

III. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 17-51, 54-61, 71-77, 79-80, 82-87, and 89-91 are pending in the application. Claims 17, 37, 44, 51, and 71 are independent.

Election of Species.

Applicants provisionally elect the species of Group I - "Kidney shaped receptacle", upon which Claims 17-26, 28-51, 54-61, 71-77, 79-80, 82-87, and 89-91 read. Applicants submit that Claims 17-22 and 28-31 are generic. Applicants respectfully traverse the election requirement on the ground that a search of the art for one group of claims will necessarily include a search of the art for the other group of claims (Claim 27). It is believed that the burden on the Examiner to examine all claims in a single application is less than the burden on the Applicants/public to prosecute/search more than one application/patent.

Objection to the Claims.

Applicants traverse the objection to Claim 81 on the ground that "substantially coplanar" surfaces are not necessarily "substantially horizontal"; they may be, for example, vertical.

Nevertheless, Claim 81 has been cancelled.

35 USC § 112, First Paragraph.

Claims 17-26, 28-35, and 37-91 were rejected under 35 USC § 112, first paragraph, for the reasons noted at pages 4-5 of the Office Action. Applicants respectfully traverse this rejection on the ground that the person of ordinary skill in the art would be convinced that the inventors were in possession of the claimed invention at the time the application was filed. In particular:

-- "each of the opposing walls has a substantially horizontal upper edge" is clearly supported in Fig. 7;

-- "in substantially the same horizontal plane" is clearly supported in Fig. 7;

-- "first and second upper edges are substantially coplanar" is clearly supported in Fig. 7;

-- Claim 17 did not recite that **only** one of the edges has two notches, merely that one edge did. The Examiner incorrectly read the word **only** into the claim.

-- the "kidney-shaped" receptacle language was suggested by the Examiner in the April 23, 2003 interview, as is evidenced by the Examiner's use of this phrase in the Election Requirement set forth at page 2 of the Office Action. Moreover, Applicants respectfully submit that the person of ordinary skill

in the art would conclude that a "kidney-shaped" receptacle is supported in Fig. 7.

-- The receptacle having a maximum height larger than twice the diameter of the inwardly turned end is clearly supported in Fig. 7.

-- The receptacle middle section extending vertically above the adjacent right and left side sections is clearly supported in Fig. 7.

-- Applicants are not relying upon the Drawings for any critical measurements, as no measurements have been claimed. It is beyond question that Drawings may provide proper support for claims under 35 USC § 112, first paragraph. See MPEP 2163.02.

Applicants request clarification of the Examiner's statement at the end of the 35 USC § 112, second paragraph rejection (page 5 of the Office Action) that, "The above rejections are new matter rejections." Such rejections are typically applied under 35 USC § 132, not 35 USC § 112, first paragraph. To the extent that this sentence may be construed to be a new matter rejection, Applicants respectfully traverse on the ground that no person or ordinary skill in the art would conclude that any previously submitted claim or specification amendment introduced any new matter.

Note that several of the claims have been amended for clarity with respect to the specification and Drawings, and

not in response to any statutory requirement.

35 USC § 112, Second Paragraph.

Claims 17-26, 28-35, and 37-91 were rejected under 35 USC § 112, second paragraph, for the reasons noted at pages 5-6 of the Office Action. Applicants respectfully traverse this rejection on the ground that the person of ordinary skill in the art not be confused as to the meaning or scope of the claims. As this rejection is substantially identical to the rejection under 35 USC § 112, first paragraph, see the corresponding traversals set forth above. In addition:

-- the single piece, constant diameter support member is clearly supported in Fig. 7;

-- notches having substantially the same depth are clearly supported in Fig. 7.

Note that several of the claims have been amended for clarity with respect to the specification and Drawings, and not in response to any statutory requirement.

35 USC §§ 102 and 103.

Claims 17-26, 28-35, 37-91 were rejected as being unpatentable over Stahl, Box, and Loftus, for the reasons noted at pages 7-10 of the Office Action. Applicant respectfully

traverses all art rejections. Applicants note that no art rejection has been applied against Claims 27 and 36.

Independent Claim 17 recites a novel combination of structure and/or function whereby the container has a base configured to provide vertical support to objects, and a pair of side walls projecting above the base, each of the opposing walls presenting an exterior surface and having two curvilinear receptacles defined within the exterior surface. Each of the opposing walls also includes an upper edge. Each of the opposing walls has two grooves and two pairs of notches provided in the upper edge. Two single-piece support members are provided, each having two inwardly-turned ends which pivot within corresponding receptacles of the opposing walls so that each single-piece support member spans across the opposing walls. The single-piece support members extend beyond the exterior surfaces of the opposing walls, and each of the two inwardly-turned ends is pivotally mounted within the receptacles to cause the corresponding single-piece support member to be adjustable between outer, middle, and inner positions. The grooves of the opposing walls are disposed at outer portions of the upper edges thereof to support the single-piece support members in the outer positions at a first height. A first pair of notches of the opposing walls is

disposed respectively inward of the grooves to support the single-piece support members in the middle position at the first height. A second pair of notches of the opposing walls is disposed respectively inward of the second pair of notches to support the single-piece support members in the inner positions at a second height lower than the first height. The second pair of notches extends deeper into the opposing side walls than the first pair of notches. Each opposing wall upper edge extends vertically upward between the second pair of notches.

In contrast, none of the cited art (taken individually or in combination) discloses such a combination including these features. In particular, Stahl fails to disclose or suggest at least curvilinear receptacles, single-piece support members, a second pair of notches extending deeper into the opposing side walls than a first pair of notches, or opposing wall upper edges extending vertically upward between the second pair of notches.

Independent Claim 37 recites a novel combination of structure and/or function whereby the container includes a base configured to provide vertical support to objects, and a pair of sidewalls. A pair of opposing walls projects above the base, each of the opposing walls presenting an exterior surface defining two receptacles therein. Each receptacle comprises a downwardly-curved

peanut-shaped slot having (i) a curved, concave-shaped top portion, and (ii) a bottom portion which has a middle section extending vertically above adjacent left and right side sections. Each of the opposing walls includes (i) an upper edge, and (ii) at least two grooves and at least four notches provided in the upper edge. Two of the at least four notches extend deeper into the opposing wall than the remaining notches. Two support members are provided, each being pivotally mounted within a receptacle of each of the opposing walls to facilitate pivotal movement of the support member relative to the opposing walls. Each support member is configured to rest within each of the grooves and notches for effecting retention of the support member at three different support member rest positions. One of the three different support member rest positions is lower than the other two support member rest positions.

In contrast none of the cited art (taken individually or in combination) discloses or suggests a combination including such features. In particular, Stahl fails to disclose or suggest at least: downwardly-curved peanut-shaped slots having (i) a curved, concave-shaped top portion, and (ii) a bottom portion which has a middle section extending vertically above adjacent left and right side sections; or two of the four notches extending deeper into the opposing wall than the remaining notches.

Independent Claim 44 recites a novel combination of structure and/or function whereby the container includes a base configured to provide vertical support to objects, and a pair of side walls. A pair of opposing walls projects above the base, each of the opposing walls presenting an exterior surface defining two downwardly-curved, peanut-shaped curvilinear receptacles. Each of the opposing walls includes (i) an upper edge, and (ii) at least two grooves and four notches provided in the upper edge. An inner two notches extends deeper into the opposing wall than an outer two of the notches. Each opposing wall extends vertically upward in between the inner two notches. Two support members are provided, each support member being pivotally mounted within the receptacles of the opposing walls to facilitate pivotal movement of each support member relative to the opposing walls. Each support member is configured to rest within pairs of grooves and notches of the opposing walls for effecting retention of the support members at three different support member rest positions. One of the support member rest positions is lower than the other support member rest positions.

Again, none of the cited art (taken individually or in combination) discloses or suggests a combination including such features. In particular, Stahl fails to disclose or suggest at least: two downwardly-curved, peanut-shaped curvilinear receptacles; inner two notches which extend deeper into the

opposing wall than outer two of the notches ; or opposing walls which extend vertically upward in between the inner two notches.

Independent Claim 51 recites a novel combination of structure and/or function whereby a container includes a base configured to provide vertical support to objects, and a pair of side walls extending above the base. A pair of opposing walls projects above the base, each of the opposing walls presenting an exterior surface. Each of the opposing walls includes an upper edge having (i) an outer pair of grooves, (ii) an outer pair of notches, and (iii) an inner pair of notches, the inner pair of notches extending deeper into the upper edge than the outer pair of notches. Each opposing wall also comprises two peanut-shaped receptacles in the exterior surface thereof. Two support members are provided, each support member being pivotally mounted to corresponding receptacles on the exterior surfaces of the opposing walls to facilitate pivotal movement of the corresponding support member relative to the corresponding opposing wall. Each support member is configured to register within corresponding pairs of notches for effecting retention of the support member at support member rest positions in the notches. One support member rest position is below the other support member rest positions.

In contrast none of the cited art (taken individually or in combination) discloses or suggests a combination including such

a configuration of features. In particular, Stahl fails to disclose or suggest at least: the inner pair of notches extending deeper into the upper edge than the outer pair of notches; or two peanut-shaped receptacles.

Independent Claim 71 recites a novel combination of structure and/or function whereby a container includes a base configured to provide vertical support to objects, and a pair of end walls, each having a groove along an upper portion thereof. A first retainer means is provided, along with a second retainer means that is spaced apart and opposing the first retainer means. Each of the first and second retainer means projects above the base and has an exterior surface. Each of the first and second retainer means includes a first sidewall portion defining an outer pair of notches and an inner pair of notches. The inner pair of notches extends deeper into the first sidewall portion than the outer pair of notches. A second sidewall portion is disposed between the inner pair of notches and extends upward between the inner pair of notches. A pair of peanut-shaped openings is disposed in the exterior surfaces of each of the first sidewall portions, each peanut-shaped opening having a concave-shaped upper portion and a convex-shaped lower portion. The convex-shaped lower portion has a middle section which extends vertically above adjacent left and right side sections. Two

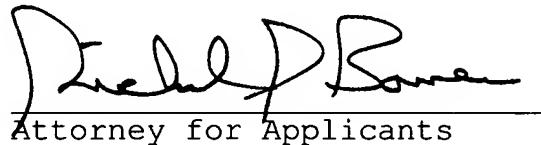
support members are pivotally mounted in the peanut-shaped openings disposed in the respective first sidewall portions to facilitate pivotal movement of the support members relative to each of the respective first sidewall portions. Each support member is configured to register within respective grooves and pairs of notches for effecting retention of the support member at three different support member rest positions.

Again, none of the cited art (taken individually or in combination) discloses or suggests a combination including such sidewall, notch, and receptacle features. In particular, Stahl fails to disclose or suggest at least: the inner pair of notches extending deeper into the first sidewall portion than the outer pair of notches; a second sidewall portion which is disposed between the inner pair of notches and extends upward between the inner pair of notches; a pair of peanut-shaped openings disposed in the exterior surfaces of each of the first sidewall portions, where each peanut-shaped opening has a concave-shaped upper portion and a convex-shaped lower portion; or the convex-shaped lower portion having middle section which extends vertically above adjacent left and right side sections.

In view of the above amendments and remarks, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicants' primary attorney, Richard P. Bauer, may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



Attorney for Applicants

Registration No. 31.508

PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661-3693
Facsimile: (312) 902-1061